

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

SIMON PROPERTY GROUP, INC.,	:	
SIMON PROPERTY GROUP, L.P.,	:	Civil Action No. 2:08-CV-01634
NORTHGATE MALL PARTNERSHIP	:	
and SHOPPING CENTER	:	Hon. Gary L. Lancaster
ASSOCIATES,	:	
	:	
Plaintiffs,	:	
	:	
vs.	:	
	:	
MARK M. PALOMBARO and	:	
ABBY, INC.,	:	
	:	
Defendants.	:	

STIPULATION AND ORDER FOR CONSENT JUDGMENT

AND NOW, this 30th day of July, 2010, upon the stipulation and consent of Plaintiffs Simon Property Group, Inc.; Simon Property Group, L.P.; Northgate Mall Partnership; and Shopping Center Associates (collectively, "Plaintiffs"); and Defendants Mark M. Palombaro ("Palombaro") and Abby, Inc. ("Abby") to the entry of a judgment in favor of Simon Property Group, L.P. and its subrogee, Great American Insurance Companies, and jointly and severally against Palombaro and Abby (the "Consent Judgment"), it is hereby stipulated and ORDERED as follows:

1. These parties enter into the Consent Judgment in order to settle this dispute. For purposes of enforcement, the Petitioners agree to waive the necessity of the Court to make

findings of fact in support of the Consent Judgment, and the lack of factual findings shall not invalidate the Consent Judgment. By entering into this Stipulation, no party is admitting or denying any allegation of any pleading in this action. The parties intend that the statements and representations made herein are made in compromise negotiations as contemplated by Federal and Pennsylvania Rules of Evidence 408.

2. Palombaro and Abby agree to the entry of this joint and several judgment against them and in favor of Simon Property Group, L.P., and Great American Insurance Companies as subrogee of Simon Property Group, L.P., on Counts V (Breach of Fiduciary Duty as to Palombaro) and VI (Aiding and Abetting Breach of Fiduciary Duty as to Abby) of the Amended Complaint in this action, in the aggregate amount of \$766,000.00. Palombaro and Abby acknowledge and agree that, in accordance with 11 U.S.C. § 523, the Consent Judgment is not dischargeable in bankruptcy.

3. Pursuant to Rule 58(a) of the Federal Rules of Civil Procedure, the Consent Judgment is set out in a document separate from this Stipulation and Order, in the form attached hereto as Exhibit A.

4. The Consent Judgment is to be entered in this Court, and may be transferred or registered in any other court as permitted by law (Palombaro and Abby waiving all objections or

defenses to such transfer or registration), immediately following this Court's entry of the Consent Judgment. The parties agree that the Consent Judgment as transferred to, or registered in, other courts is not a separate and independent judgment against Palombaro and Abby, but is a duplicate of the Consent Judgment entered pursuant to this Stipulation.

5. The Plaintiffs' remaining claims against Palombaro and Abby, other than as set forth in Counts V and VI of the Amended Complaint, and which are embodied in the pleadings of record in this action and specifically the Amended Complaint filed on December 24, 2008, are hereby dismissed with prejudice, each party to bear its own fees and costs. Upon the entry of the Consent Judgment as to Counts V and VI, the Clerk shall mark the Civil Action closed. This dismissal and closure does not include any action brought to enforce, or execute upon, the Consent Judgment or any future agreement reached among the parties pursuant hereto.

6. The Consent Judgment is binding on the parties, their heirs, successors, and assigns, as well as any persons, entities, or agents who act at their direction or under their control.

7. The Court shall retain jurisdiction of this action and the parties for the purpose of enforcing compliance (including

contempt proceedings, whether civil or criminal, with the Consent Judgment, and the terms of this Stipulation and Order.

The signatures below confirm the parties' stipulation, consent and agreement to entry of the Consent Judgment.

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Attorneys for Defendants Mark
M. Palombaro and Abby, Inc.

We agree and consent to this Stipulation and Order, and the entry of the Consent Judgment:

Mark M. Palombaro 7/30/10
Mark M. Palombaro Date

ABBY, Inc.

By: Mark M. Palombaro

Title: President

Date: 7/30/10

SO ORDERED this 2nd day of Aug, 2010.

G. H. Howard
CHIEF UNITED STATES DISTRICT JUDGE